

Message

From: Laija, Emerald [Laija.Emerald@epa.gov]
Sent: 7/16/2021 1:04:13 PM
To: Gervais, Gregory [Gervais.Gregory@epa.gov]
CC: McEaddy, Monica [McEaddy.Monica@epa.gov]
Subject: FW: Status of PP Formal Dispute

Hello Greg,

I will need to ask if there was an actual agreement based on the highlighted information below.

Emerald Laija, Environmental Scientist
U.S. Environmental Protection Agency
Desk:(202) 564-2724 | Cell: (202) 845-3198 | laija.emerald@epa.gov

From: Brock, Martha <Brock.Martha@epa.gov>
Sent: Wednesday, August 29, 2018 10:23 AM
To: Dixon, Chelsea <Dixon.Chelsea@epa.gov>; Laija, Emerald <Laija.Emerald@epa.gov>
Cc: Johnson, MaryC <Johnson.MaryC@epa.gov>; Campbell, Richard <Campbell.Richard@epa.gov>; Jones, Connie <Jones.Constance@epa.gov>; Froede, Carl <Froede.Carl@epa.gov>
Subject: RE: Status of PP Formal Dispute

Chelsea/Emy– per a question from Chelsea, a couple of dispute status summaries. We especially want to highlight the sentence in the second matter, “Resolution of this dispute prior to the Record of Decision is critical to enabling the ROD (preferably the D1 version submitted for EPA and TDEC review) to provide for protective and ARAR-compliant discharge limits for effluent containing both CWA pollutants and radioactive materials.” We were willing to omit the statement in the PP dispute (see second bullet in first matter) and use the FFS dispute to press for resolution prior to the ROD.

Oak Ridge Reservation Proposed Plan Formal Dispute. On August 28, 2018, a conference call was held among the ORR Senior Executive Committee members to follow-up on exchange of positions sent on August 24, 2018. An agreement-in-principle was reached that, prior to publishing of the Proposed Plan for public comment:

- The State Acceptance language and the DOE response language would be included in the Proposed Plan;
- EPA’s language regarding wastewater management and characterization would be included in the Proposed Plan, with the exception of a statement that the wastewater management dispute would be resolved prior to signature of the Record of Decision;
- DOE’s language regarding DOE’s access to the CERCLA (§121(d)) waiver would be included in the Proposed Plan; and
- DOE will add the D1 and D2 versions of the Focused Feasibility Study, and EPA and TDEC’s communications regarding them, to the Administrative Record.

The next step is that on August 29, 2018, DOE will provide a revised draft of the Proposed Plan and draft transmittal letter addressing all four points above to EPA and TDEC, and we will review for consistency with the above four agreements. If the agreement is reflected in an acceptable manner in the transmittal letter and revised Proposed Plan, EPA and TDEC have agreed to consider the dispute resolved without a dispute resolution agreement.

Oak Ridge Reservation Focused Feasibility Study Formal Dispute. On August 24, 2018, EPA transmitted via email to the ORR Dispute Resolution Committee, a statement of dispute, thereby elevating to formal dispute, the informal dispute regarding the inadequacy of the FFS to identify wastewater management alternatives that are consistent with CERCLA and the NCP (specifically, that ensure that discharge of landfill effluent is protective of the human health and the environment and comply with applicable or relevant and appropriate requirements (ARARs)). The statement of dispute states that the CWA is “applicable” to effluent containing CWA pollutants and “relevant and appropriate” to effluent containing radioactive materials and also provides a description of the methodology for how to ensure that effluent

discharge is protective and ARAR-compliant. Resolution of this dispute prior to the Record of Decision is critical to enabling the ROD (preferably the D1 version submitted for EPA and TDEC review) to provide for protective and ARAR-compliant discharge limits for effluent containing both CWA pollutants and radioactive materials. The DRC will have 21 days after receipt of the formal communication to engage in dispute resolution. A DRC videoconference has been scheduled for September 6, 2018.

If you have any questions, please feel free to call.

Martha Brock
Senior Attorney, Federal Facilities; EPA Region 4
61 Forsyth St., SW; Atlanta, GA 30303
Ph: (404) 562-9546